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HOUSE BILL 2589

By DeBerry J

AN ACT to amend Tennessee Code Annotated, Title 71, Chapter 3, Part 5 and Section 71-1-130, relative to child welfare agencies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-3-504(b), is amended by deleting the fifth sentence in subdivision (1) that begins with the language "The committee shall cease" and by substituting instead the following:

The committee shall develop, and recommend to the commissioner, additional standards for improving the quality of child care to specifically include minimum qualifications for directors and care-givers; training of staff; reductions in staff to child ratios, especially for infants; increased technical assistance for child welfare agencies; and enhanced procedures for enforcement actions against child welfare agencies that fail to meet minimum standards or otherwise need heightened monitoring. Such recommendations shall address mechanisms for rewarding or encouraging agencies that exceed minimum standards. Such recommendations shall expressly include day care services that are reimbursed by the department on behalf of low-income families pursuant to Section 71-1-130.

SECTION 2. Tennessee Code Annotated, Section 71-1-130(d), is amended by designating the existing subsection as subdivision (d)(1) and by adding the following as a new subdivision:

(2) An additional one dollar (\$1.00) per week may be paid, in the commissioner's discretion, to those facilities determined by the commissioner to exceed current state child care standards.

SECTION 3. Tennessee Code Annotated, Section 71-3-506(b), is amended by deleting all numbers, language and figures following the language "with the following schedule:" and by substituting instead the following:

(1) Family child care home .....	\$10.00
(2) Group child care home .....	20.00
(3) Child care center -- Less than 50.....	30.00
(4) Child care center -- 50 to 100 .....	40.00
(5) Child care center -- More than 100 .....	50.00
(6) Family boarding home or foster care home .....	10.00
(7) Group care home .....	20.00
(8) Any child-caring institution or child-placing agency.....	20.00
(9) Maternity home .....	20.00
(10) Runaway shelter.....	20.00
(11) Emergency shelter .....	20.00
(12) Child abuse agency.....	20.00
(13) Prescribed child care center .....	50.00
(14) Detention center .....	50.00
(15) Temporary holding resources.....	20.00

SECTION 4. Tennessee Code Annotated, Section 71-3-506(a), is amended by adding the following at the end of that subsection:

No child care center may be issued a license without proof of insurance coverage adequate for protection of the children served, to include, at a minimum, coverage for facilities where children are present and vehicles are used to transport children.

SECTION 5. Tennessee Code Annotated, Section 71-3-506(c), is amended by deleting that subsection in its entirety and by substituting instead the following:

(c)(1) When an application for a license has been denied, the agency may not reapply for a period of sixty (60) days from the date of the denial. If such license has been denied on two (2) occasions, the agency may not reapply for a period of six (6) months. If such license has been denied on three (3) or more occasions, the agency may not reapply for a period of twelve (12) months. The department may waive the time restrictions herein upon a showing by the agency to the satisfaction of the department that the agency has corrected the deficiencies which led to the denial.

(2) When an application for a license has been revoked, the agency may not reapply for a period of twelve (12) months. The department may waive the time restrictions herein upon a showing by the agency to the satisfaction of the department that the agency has corrected the deficiencies which lead to revocation and that such deficiencies are not likely to reoccur.

SECTION 6. Tennessee Code Annotated, Section 71-3-520(b), is amended by deleting the first sentence of subdivision (4) and by substituting instead the following:

(4) If the department determines that the agency has corrected the violation after being placed on probation, and that the agency meets all relevant licensure standards, the department shall remove the probationary status. The agency may then cease to post any notice of probation and may notify the custodian of the children in its care of its corrected status.

SECTION 7. Tennessee Code Annotated, Title 71, Chapter 3, Part 5, is amended by adding a new section thereto, as follows:

(a) In lieu of, or in addition to, taking any other licensing action pursuant to this part, the commissioner may assess a civil penalty against any agency in an amount not to exceed one thousand dollars (\$1,000) for each separate violation of a statute, rule or order pertaining to such agency. Each day of continued violation constitutes a separate violation.

(b) The department shall by rule establish a schedule designating the minimum and maximum civil penalties which may be assessed under this section. In assessing civil penalties, the following factors may be considered:

- (1) The severity of the violation, any harm that actually occurred and the risk of harm to the children or families served or to the public;
- (2) The circumstances leading to the violation;
- (3) Whether the amount imposed will be a substantial economic deterrent to the violator;
- (4) The economic benefits, if any, gained by the violator as a result of noncompliance; and
- (5) The interest of the public.

(c)(1) Civil penalties assessed pursuant to this section shall become final thirty (30) days after the date a final order of assessment is served unless a written request for a hearing before the board of review is made within ten (10) days of the mailing of the notice of assessment.

(2) If the violator fails to pay an assessment when it becomes final, the division may apply to the appropriate court for a judgment and seek execution of such judgment.

(3) Jurisdiction for recovery of such penalties shall be in the chancery court of Davidson County, or the chancery court of the county in which all or part of the violations occurred.

(d) All sums recovered pursuant to this section shall be paid into the state treasury, but shall be earmarked for and dedicated to the department. Such sums shall be used exclusively by the department to improve child care quality in this state.

SECTION 8. This act shall take effect July 1, 2000, the public welfare requiring it.